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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,725	01/08/2002	Jeffrey A. Von Arx	279.396US1	5231

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EXAMINER

MANUEL, GEORGE C

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/041,725	Applicant(s) VON ARX ET AL.	
	Examiner George Manuel	Art Unit 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-18 is/are allowed.
- 6) ☒ Claim(s) 19-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 35, 36 and 38 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Spinelli et al '290.

Spinelli et al disclose an external first transceiver comprising programmer 106, and an external second transceiver comprising expert client 108, and an external controller comprising wide area network 102. Link 202 uses a first communication protocol comprising RF signals and the wide area network uses second communication signal comprising point-to-point unswitched private communication lines or switched lines similar to public switched telephone network lines.

Regarding claim 38, Spinelli et al provide atrial and ventricular sensing.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3762

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al '063 in view of Stein '551.

Thompson et al disclose a telemetry device operable with an implantable device. The examiner is interpreting the telemetry circuitry associated with the implantable device to comprise a first transceiver and the circuitry associated with the programmer to comprise a second transceiver.

Stein provides circuitry for providing a sensed electrogram. One of ordinary skill in the art would have found it obvious to combine the sensed electrogram data with the telemetry system of Thompson et al because Thompson et al teach the Stein circuitry is adaptable (see col. 2, lines 14-20).

The memory 15 holds data and forms a portion of the telemetry system in the Thompson et al reference. One of ordinary skill in the art would have found it obvious to buffer the data held in memory 15 with sensed electrogram data because in addition to the pacer operating under the control of data parameters stored in memory 15, the memory is also depicted receiving data from sense amplifier 34.

Regarding applicant's comments directed toward an external remote transceiver using another (intermediary) external transceiver, claim 19 does not appear to positively recite "another" transceiver. The claim does not appear to separate or show a distinction between the far-field RF transceiver and an intermediary transceiver and therefore, the device of Thompson et al meets the limitation of an intermediary external transceiver.

Likewise, regarding applicant's comments directed toward claim 31, the limitation of communications between an intermediary device and a remote transceiver is not positively recited in the claim.

Regarding applicant's comments directed toward claim 27, it is inherent the device of Thompson et al uses a second signal for programming a pacemaker in response to an electrogram for ensuring the pacemaker is operatively programmed.

Regarding claim 25, the examiner is interpreting an alert condition to comprise an abnormal sensed heart rate condition.

Regarding claims 33 and 37, one of ordinary skill in the art would have found it obvious to compress the telemetry data because it is well known to compress telemetry data to reduce bandwidth.

Regarding claims 34 and 38, the examiner is interpreting other analog signal sources 36 to comprise another sensor associated with the patient.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spinelli et al '290 in view of Spiess '512.

Spinelli et al show all of the claimed features except for compressing the first communication signal, i.e. the RF signals.

Spiess teaches compressing radio frequency signals for subsequent retransmission.


One of ordinary skill in the art would have found it obvious to combine the teaching of Spiess to compress the RF signals in the Spinelli et al device for transmission through the wide area network because the teaching applies to RF signals and the compression increases the ease with which data can flow through the network.

Allowable Subject Matter

Claims 1-18 are allowed.

Conclusion

The finality listed in the last Office Action Summary sheet was in error. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (571) 272-4952.


George Manuel
Primary Examiner
Art Unit: 3762

1/28/05